

LAW OFFICES
OF
CHARLES P. SCULLY, INC.
300 MONTGOMERY STREET
SUITE 735
SAN FRANCISCO, CALIFORNIA 94104 1909

CHARLES P. SCULLY (1915-1985)
DONALD C. CARROLL
CHARLES P. SCULLY, II

March 7, 1988

MAR 9 0 34 AM '88
TELEPHONE
302-0241
AREA CODE 415

Ms. Kathleen E. Donovan, Attorney
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95804-0807

Re: California Labor Federation, AFL-CIO -
Coalition to Restore Safety at Work
Your File No. A-88-054

Dear Ms. Donovan:

This will acknowledge receipt on March 7, 1988 of your correspondence dated March 2, 1988 and postmarked March 3, 1988.

As you are aware, Mr. Lance Olson is both the Treasurer and counsel to the Coalition. He has been apprised of the aforesaid correspondence and may be in contact with you vis-a-vis the same.

I would note for the record that I believe one sentence contained within your correspondence to be factually inaccurate. In particular, on page 3, first full nonindented paragraph, you state,

"You (sic these offices) have informed us (sic the Commission) that the Coalition receives or will receive all or nearly all of its contributions from the Federation."

I have reviewed my correspondence of January 27, 1988 as well as my notes from the meeting of January 26, 1988. Neither of the foregoing sources, nor my own memory, suggest that the aforesaid purported factual assertion has ever been made by these offices. As noted above, Mr. Olson is the Treasurer for the Coalition and we would defer to him, and his records, as to contributions to date.

On behalf of both these offices and the Federation, we would express our thanks for your courtesy and cooperation in this matter.

Very truly yours,

LAW OFFICES OF
CHARLES P. SCULLY, INC.

CPSII:bjs
OPE-3-AFL-CIO
cc: Mr. J. F. Henning
Mr. A. J. Gruhn
Lance H. Olson, Treasurer

By

Charles P. Scully II
Charles P. Scully II

LAW OFFICES
OF
CHARLES P. SCULLY, INC.
300 MONTGOMERY STREET
SUITE 735
SAN FRANCISCO, CALIFORNIA 94104-1909

CHARLES P. SCULLY (1915-1985)
DONALD C. CARROLL
CHARLES P. SCULLY, II

January 27, 1988

TELEPHONE
362-0241
AREA CODE 415

CERTIFIED MAIL - RETURN
RECEIPT REQUESTED

Ms. Jeanne Pritchard
Division Chief
Fair Political Practices Commission
Technical Analysis Division
428 "J" Street
Sacramento, CA 95814

Re: Coalition to Restore Safety at Work/
California Labor Federation, AFL-CIO

Dear Ms. Pritchard:

This will serve to confirm the meeting of January 26, 1988 held in your offices in regard the above. Also in attendance were Executive Secretary-Treasurer John F. Henning, Mr. Tom Rankin from the Federation, Mr. Ross from the Coalition, Mr. Olson Treasurer and counsel to the Coalition and finally Ms. Wardlow of your staff.

Mr. Henning explained that the Federation receives monthly per capita payments from its affiliates. 20¢ of the per capita is paid directly to the Federation and 5¢ of the per capita is paid to the Federation's Standing Committee on Political Education.

Mr. Henning explained that in his capacity as Executive Secretary-Treasurer of the Federation he was the proponent of a proposed ballot initiative to restore Cal/OSHA.

Mr. Henning explained that the Federation's accountants have advised the Federation that activities related to ballot initiatives are considered "lobbying activities" under the Internal Revenue Code. In accord with the advice of the Federation's accountants, contributions in support of the initiative would be paid from the Federation's general treasury funds rather than from the funds of the Standing Committee on Political Education.

You explained that for purposes of the Political Refore Act the same activities in support of the initiative would be viewed as campaign activities and not lobbying activities.

Ms. Jeanne Pritchard
Division Chief
Fair Political Practices Commission

Page Two
January 27, 1988

You further explained that it was your position the Statement of Organization filed by the Coalition must be amended to show the Federation as a "sponsor" of the Coalition.

You explained that if the Federation were the sole sponsor of the Coalition the name of the Coalition would have to be amended to specifically include the name of the Federation. If the Coalition is also sponsored by groups other than the Federation generic references would be acceptable, i.e. Labor, Environmental and Health groups.

You acknowledged that the instant factual situation reflected one not contemplated in the Form 410 and its instructions when drafted, i.e. the amended Statement of Organization of the Coalition will show the Coalition as being both controlled and sponsored.

From our discussions it is my understanding the foregoing results in the following as to reporting of contributions by the Federation to the Coalition.

(1) All activities of the Federation, including contributions in support of the initiative, should be reported in Campaign Statements to be filed by the Coalition. Implicit in the foregoing is the fact that the Federation and its Affiliates need not file a Statement of Organization nor Campaign Statements related to the aforesaid use of per capita payments.

(2) The Federation should not report activities related to the initiative on its lobbyist reports.

It is my understanding that should the Federation subsequently contribute to committees supporting or opposing other initiatives, and the Federation not be a co-sponsor of such committees, the Federation would be obligated to file Statements of Organization and Campaign Statements related to those activities, assuming the cumulative threshold contribution amount was met.

Should I be mistaken in regard any of the above, I would appreciate correspondence noting the same.

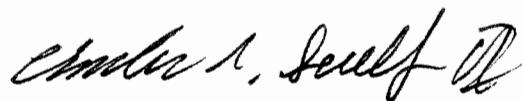
Ms. Jeanne Pritchard
Division Chief
Fair Political Practices Commission

Page Three
January 27, 1988

In closing, I would simply express on behalf
of the Federation, its officers and these offices our
sincere thanks for your courtesy and cooperation.

Very truly yours,

LAW OFFICES OF
CHARLES P. SCULLY, INC.

By 
Charles P. Scully II

CPSII:bjs
OPE-3-AFL-CIO

cc: Mr. John F. Henning
Mr. Albin J. Gruhn
Mr. Tom Rankin
Mr. R. B. Schmechel
Lance H. Olson, Esquire

LAW OFFICES
OF
CHARLES P. SCULLY, INC.
300 MONTGOMERY STREET
SUITE 735
SAN FRANCISCO, CALIFORNIA 94104-1909

FEB 3 5 11 38

CHARLES P. SCULLY (1915-1985)
DONALD C. CARROLL
CHARLES P. SCULLY, II

February 3, 1988

TELEPHONE
362-0241
AREA CODE 415

Ms. Kathryn Donovan, Attorney
California Fair Political Practices
Commission, Legal Division
428 J Street, Suite 800
Sacramento, CA 95804-0807

Re: Coalition to Restore Safety at Work/
California Labor Federation, AFL-CIO
(Your File 88-054)

Dear Ms. Donovan:

This will simply confirm our telephone conversation of February 3, 1988 in regard the above.

I explained that I felt the first sentence of that correspondence was somewhat inaccurate given the meeting which took place on January 26, 1988. From our conversation it is my understanding the February 1, 1988 correspondence of the Commission is "form" correspondence and, accordingly, the aforesaid distinction is of no moment.

From our conversation it is my understanding that you need no additional information from the California Labor Federation, AFL-CIO at this time. Should you determine additional information is in fact required, please do not hesitate to contact me by the means most convenient to you.

Finally, it is my understanding that the Federation need not take any action on this matter until such time as the Commission has reached a final conclusion. From our discussions it is my understanding the Legal Division views this matter as a complex legal question and, accordingly, there may be some delay in this matter.

In closing, I would express on behalf of the Federation, its officers and these offices our thanks for your courtesy and cooperation in this matter.

Very truly yours,

CPSII:bjs
OPE-3-AFL-CIO
cc: Mr. J. Henning
Mr. A. Gruhn
Mr. T. Rankin
Mr. R. Schmechel
Lance H. Olson, Esq.

LAW OFFICES OF
CHARLES P. SCULLY, INC.

By 
Charles P. Scully II



California Fair Political Practices Commission

February 1, 1988

Charles P. Scully II
Charles P. Scully, Inc.
300 Montgomery Street, Suite 735
San Francisco, CA 94104-1909

Re: 88-054

Dear Mr. Scully:

Your letter requesting advice under the Political Reform Act was received on January 29, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, reading "Diane M. Griffiths", is written over the typed name.

Diane M. Griffiths
General Counsel

DMG:plh



California Fair Political Practices Commission

March 2, 1988

Charles P. Scully, II
300 Montgomery Street, Suite 735
San Francisco, CA 94104-1909

Re: Your Request for Advice
Our File No. A-88-054

Dear Mr. Scully:

You have requested advice on behalf of the California Labor Federation, AFL-CIO and the Coalition to Restore Safety at Work, concerning the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Is the Coalition to Restore Safety at Work a sponsored committee?

CONCLUSION

The Coalition to Restore Safety at Work is a sponsored committee. Accordingly, the committee's name must be amended to include the name of its sponsor, the California Labor Federation, AFL-CIO. If the Coalition to Restore Safety at Work reports all contributions and expenditures made in its support by the California Labor Federation and affiliated entities, the California Labor Federation and its affiliates will have no separate campaign disclosure obligations solely because of their contributions or expenditures in support of the Coalition. Because it is a sponsored committee, the Coalition is not considered a controlled committee.

FACTS

John Henning, in his capacity as Executive Secretary-Treasurer of the California Labor Federation, AFL-CIO (the "Federation"), is listed as the proponent of a proposed

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Charles P. Scully, II
March 2, 1988
Page 2

state initiative measure. The proposed state initiative measure would restore Cal/OSHA. To support qualification of the proposed initiative measure, Mr. Henning has organized a ballot measure committee known as the Coalition to Restore Safety at Work (the "Coalition").

The Federation proposes to use its general treasury funds to make contributions to support the proposed initiative measure. The Federation's general treasury funds are collected from the Federation's affiliates. We are informed there are approximately 1,500 Federation affiliates in California. Each affiliate pays directly to the Federation 25 cents of the per-capita membership dues the affiliate receives. The Federation allocates 20 cents to its general treasury and 5 cents to its political action committee.

Currently, the Federation will be the primary contributor to the Coalition. However, it is possible that in the future other organizations, such as labor unions and environmental groups, also will make contributions to the Coalition.^{2/}

ANALYSIS

Every organization which receives political contributions totaling \$1,000 or more in a calendar year is a recipient committee. (Section 82013(a).) Each recipient committee is required to file a statement of organization with the Secretary of State within 10 days after qualifying as a recipient committee. (Section 84101.)

The statement of organization must include, among other things, the name of the committee. If the committee is a "sponsored committee," the committee's name must include the name of its sponsor. (Section 84102(a).) The statement of

^{2/} We have received conflicting information about the potential role these other organizations might play in the Coalition. We are informed that no organization other than the Federation has made any commitment to support the Coalition. Accordingly, at this time we treat the involvement of other organizations in the Coalition's activities as hypothetical. The Commission's policy is to decline to provide advice in response to hypothetical questions. (Regulation 18329(b)(8)(D), copy enclosed.) However, you may request additional advice concerning the Coalition's duties should the involvement of other organizations become a reality.

Charles P. Scully, II
March 2, 1988
Page 3

organization also must include a statement indicating whether the committee is "controlled." (Section 84102(e).)

Section 82048.5 defines "sponsored committee" as follows:

(a) "Sponsored committee" means a committee, other than a controlled committee, which has one or more sponsors. Any person, except a candidate, proponent, or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives all or nearly all of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

You have informed us that the Coalition receives or will receive all or nearly all of its contributions from the Federation. Furthermore, Mr. Henning, the Executive Secretary-Treasurer of the Federation, sets the policies for making expenditures of Coalition funds. Thus, the Federation qualifies as the sponsor of the Coalition pursuant to Section 82048.5(b)(1) and (4).

The provisions requiring identification of sponsored committees became effective in 1986. One purpose of these provisions is to prevent special interest groups, which sponsor political committees, from hiding their identity behind the committee name. A second purpose is to consolidate the campaign reporting of the committee, its sponsor, and any affiliates or intermediate units of the sponsor. If the Coalition is a sponsored committee, both these purposes would

Charles P. Scully, II
March 2, 1988
Page 4

be achieved. The Coalition would be required to include the name of the Federation in its name. In addition, campaign reporting by the Coalition, the Federation and the numerous affiliates would be consolidated.

One last factor must be discussed before we can conclude the Coalition is a sponsored committee. Section 82048.5 specifically excludes controlled committees from the definition of sponsored committee. Thus, if we determine the Coalition is a sponsored committee, we cannot also conclude it is a controlled committee.

Mr. Henning, in his capacity as Executive Secretary-Treasurer of the Federation, appears to be both the proponent of the proposed initiative measure and the decisionmaker for the Coalition. Under the facts you have provided, we cannot distinguish between Mr. Henning's and the Federation's involvement in the proposed initiative measure. It would be accurate to characterize the Federation as the proponent of the initiative measure instead of Mr. Henning.

Because Mr. Henning controls the Coalition and also is listed as the proponent of the state initiative measure, we could decide that the Coalition is a controlled committee pursuant to Section 82016. As previously stated, such a decision would mandate that we further conclude the Coalition is not a sponsored committee. While Section 82048.5 prevents us from determining that the Coalition is both sponsored and controlled, it does not provide explicit guidance to aid us in determining whether a particular committee is sponsored or controlled if it appears to fit both definitions. In such a situation, we must consider which decision would better serve the policies of the Act. We conclude that the policies of the Act are better served if the Coalition is a sponsored committee and not a controlled committee.

The identification requirements for sponsored committees put the public on notice regarding the group or groups primarily responsible for the committee's efforts. You have informed us that the Federation clearly is the group responsible for the proposed state initiative and for the Coalition. If the Federation's name is included in the name of the Coalition, people who receive the Coalition's mass mailings could easily identify the Coalition as an arm of the Federation. This can be required only if the Coalition is a sponsored committee. (Sections 84102(a), 84106 and 84305.)

In contrast, if the Coalition is only a controlled committee, the Federation's direct involvement would be

Charles P. Scully, II
March 2, 1988
Page 5

obscured. In its mass mailing, the Coalition would be required to identify itself and Mr. Henning as the senders. (Section 84305.) However, Mr. Henning's status as an officer of the Federation, or any other connection between the Coalition and the Federation, need not be disclosed on those mailings. That connection would be disclosed only on campaign reports, showing the Federation as the primary contributor to the Coalition.

Furthermore, if the Coalition is a controlled committee, and therefore not a sponsored committee, the Federation and each of its several hundred affiliates must register as recipient committees and file separate campaign statements. This massive amount of paperwork would simply indicate that the affiliates collect a small amount per member and forward it to the Federation. No individual members would be identified as contributors, since the per-capita amount collected is well below \$100. (Section 84211(f).) The Federation would report the amounts forwarded to it from its affiliates as contributions received. In turn, the Coalition would report the total contributions forwarded by the Federation.

On the other hand, if the Coalition is a sponsored committee, the Federation and its affiliates would have no separate reporting requirements simply because of the initiative measure. The Coalition's campaign statements would provide a consolidated picture of the campaign activities of the Federation and all affiliates in connection with the proposed initiative measure. (Regulation 18419.)

Based on the above, we conclude that the Coalition is a sponsored committee but not a controlled committee, and that the Federation is its sponsor. Accordingly, the Coalition must amend its statement of organization to include the Federation in the name of the Coalition. (Section 84102(a).)^{3/} If the Coalition reports all contributions and expenditures that the Federation and the Federation's affiliates make in support of the Coalition, the Federation and its affiliates have no separate campaign disclosure obligations solely because of their contributions or expenditures in support of the Coalition. (Regulation 18419, copy enclosed.)

^{3/} If the Coalition's statement of organization currently indicates that it is a controlled committee, that too must be changed.

Charles P. Scully, II
March 2, 1988
Page 6

If you have any further questions regarding this matter,
please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

Kathryn E. Donovan

By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:plh
Enclosures